IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4106 of 2007
Date of Decision: 3.4.2007

General Manager, Haryana Roadways, Rohtak

Petitioner

versus

Jai Kanwar and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri I.S.Kang, AAG Haryana, for the petitioner

Jasbir Singh, J. (Oral)

This writ petition has been filed against award dated 18.5.2006 (Annexure P/10), passed by the Industrial Tribunal-cum-Labour Court, Rohtak, ordering reinstatement of the respondent-workman with continuity of service and payment of 50% of the back wages. So far as relationship of master and servant is concerned, the same is not in dispute. It has also come on record that before service of the petitioner was terminated, he had completed 240 days with the management/ petitioner, in 12 months preceding to date of his termination. The workman raised a dispute, which was referred to the Tribunal, for adjudication. Before the Labour Court, it was contention of the petitioner that the service was terminated after complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947 (in short, the Act), as the retrenchment compensation was paid to the respondent-workman at the time, when termination order was handed over to him. The Labour Court, on appraisal of evidence found it, as a matter of fact, that the bank draft, towards payment of compensation, was not handed over on 25.5.2000, when service was terminated, rather it was handed over subsequent thereto on 31.5.2000. To say so, reference was

made to the noting made by the messenger, who allegedly handed over the termination letter to the respondent-workman. It was also found, as a matter of fact, that the juniors to the workman, were retained in service, when service of the respondent-workman was terminated. It was also found, as a matter of fact, that there is a violation of the provisions of Section 25-H of the Act. The Labour Court, on appraisal of evidence, has observed thus:-

> *"There is merit in the contention of learned AR for the workman. Taking into consideration the show cause notice Ex.M-2 where it is mentioned that no post of regular helper is vacant in the department and this was the main reason that service of the workman was to be terminated. But in the termination order a reference has been made regarding C.W.P. No.12509 of 1998 Puran Lal vs. State of Haryana, whereas this writ petition is regarding to the regularization of service of conductor and this writ petition has nothing to do with the service of the workman. Perusal of termination order clearly shows that it was dated 25.5.2000 and no bank draft was handed over to the workman because perusal of the noting of the messenger who was deputed to handover the termination order and the bank draft to the workman including some other workman is dated 31.5.2000. If he has to deliver the termination order and the bank draft then why he has not made the noting on the same day and why he has made the same on 31.5.2000. It clearly shows that in fact the bank draft and the termination order was not tried to be handed over to the workman on 25.5.2000 to 26.5.2000 as alleged by the management. Not only this even juniors to the workman namely Sh.Bijender Singh s/o Sh.Rishal Singh who joined the service of the management on 26.8.1995 as helper on daily*

wages and similarly Sh.Raj Kumar s/o Sh.Om Parkash who joined the service of the management on 1.9.1995 as helper on daily wages are still working with the management whereas the present workman joined the service of the management on 1.8.1995 as a daily wage helper. Perusal of statement of WW-2 clearly shows that a compromise was arrived at between the parties and the aforesaid workman was allowed to join their service on 1.4.2000, whereas the service of the workman was terminated on 26.5.2000. The management failed to prepare any seniority list and it also failed to seek the sanction of the appropriate Govt. regarding the termination of service of the workman and in this way the management has failed to comply with the provisions of Section 25-G and 25-H of the Industrial Disputes Act by retaining juniors to the workman and it also failed to comply with mandatory provisions of Section 25-F of the aforesaid Act because it failed to pay retrenchment compensation to the workman when the service of the workman was terminated and in this way I decide this issue in favour of the workman and against the management."

We feel that the finding given above is perfectly justified. Nothing has been shown to the contrary. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

April 03, 2007 **(Nirmal Yadav)**
gk **Judge**